

DOCKET NO. HHD-CV-23-6171860-S	:	SUPERIOR COURT
	:	
TOWN OF NEW CANAAN	:	JUDICIAL DISTRICT
	:	OF HARTFORD
v.	:	
	:	AT HARTFORD
STATE OF CONNECTICUT	:	
DEPARTMENT OF HOUSING	:	SEPTEMBER 27, 2023

**REPLY TO OBJECTIONS TO HILL STREET-72 LLC'S MOTION TO  
INTERVENE<sup>1</sup>**

By Motion dated August 15, 2023 (Entry #107.00), Hill Street-72 LLC ("Hill Street") moved to be made a co-defendant party to this action, as provided by Sections 52-102 and 52-107 of the Connecticut General Statutes and Sections 9-6 and 9-18 of the Connecticut Practice Book. Three other entities, 751 Weed Street, LLC, W.E. Partners, LLC, and 51 Main Street, LLC (collectively, "Weed and Main Street Movants"), filed a Motion to Intervene, and Memorandum in Support of Motion to Intervene, both dated August 8, 2023 (Entries #105.00 and 106.00, respectively).

By Objection, dated September 15, 2023 (Entry #110.00), plaintiff Town of New Canaan, Connecticut ("Town"), and Objection, dated September 7, 2023 (Entry #109.00), defendant State of Connecticut Department of Housing ("DOH"), objected to Hill Street's and the Weed and Main Street Movants' Motions to Intervene.

Hill Street's Motion to Intervene is premised on facts and analysis similar to those raised by the Weed and Main Street Movants. All Movants are involved with applications submitted to and acted upon by land use agencies of the Town that propose residential

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<sup>1</sup> The movant, Hill Street-72 LLC, respectfully incorporates the same replies with legal analysis submitted to the Court by 751 Weed Street, LLC, W.E. Partners, LLC, and 51 Main Street, LLC, in a Reply Memorandum, dated September 19, 2023 (Entry #111).

communities providing an affordable housing component pursuant to Section 8-30g of the Connecticut General Statutes.

Specifically, Hill Street submitted applications to the Town's Water Pollution Control Authority, Inland Wetlands Commission, and Planning and Zoning Commission, which were denied by each agency and are now the subject of appeals pending before the Court.<sup>2</sup> If the subject moratorium is approved by the Court, or approved by settlement involving the Town and DOH, the moratorium would preclude the refiling of Hill Street's Section 8-30g application with the Planning and Zoning Commission. In addition, the moratorium would effectively negate the ability to refile any related proposal with the Water Pollution Control Authority and Inland Wetlands Commission. Such a moratorium could also adversely impact a remand involving the pending appeals; in particular, the Planning and Zoning Commission appeal whereby the Town may attempt to apply the moratorium to prevent Hill Street's application from being considered with the remand.

Therefore, Hill Street has a direct and substantial interest in the outcome of this appeal that, except for the Weed and Main Street Movants, is distinct from the interests of any other property owner in the Town. Although Hill Street did not participate in a related administrative proceeding involving the Town and DOH, Hill Street remains a necessary and indispensable party to this appeal.

The suggestion by DOH that Hill Street's interests can be protected by submitting an *amicus curiae* brief is a nice gesture. However, although an *amicus curiae* may have a

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<sup>2</sup> See *Hill Street-72, LLC v. New Canaan Planning and Zoning Commission*, HHD-LND-CV-23-6171350-S; *Hill Street-72, LLC v. Water Pollution Control Authority of the Town of New Canaan*, HHD-LND-CV-23-6168031-S; and *Hill Street-72, LLC v. Inland Wetlands Commission of the Town of New Canaan*, HHD-LND-CV-23-6171349-S.

general interest in the outcome of a matter, Hill Street has specific and substantial legal interests that may likely be impacted by a decision in this appeal.

In conclusion, Hill Street respectfully submits that neither the Town nor DOH cite any relevant case law or reason to deny Hill Street's Motion to Intervene. Hill Street respectfully moves to be made a party and afforded the opportunity to protect its rights and interests that may likely be impacted by a decision in this appeal.

HILL STREET-72 LLC

By: /Christopher J. Smith; Juris No. 302064/  
Christopher J. Smith, Esq.  
Alter & Pearson, LLC  
701 Hebron Avenue  
P.O. Box 1530  
Glastonbury, Connecticut 06033  
Tel. (860) 652-4020  
Fax. (860) 652-4022  
csmith@alterpearson.com  
Juris No. 302064  
Its Attorneys

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing Reply to Objections was electronically delivered on this 27th day of September 2023 to all counsel of record:

Nicholas Bamonte, Esq.  
nbamonte@berchemmoses.com  
Berchem Moses  
1221 Post Road East  
Westport, CT 06880  
(Counsel for plaintiff)

Vianca Tari Malick  
Vianca.malick@ct.gov  
AG-Transportation  
165 Capital Avenue, 5<sup>th</sup> Fl.  
Hartford, CT 06106  
(Counsel for defendant)

Timothy S. Hollister, Esq.  
thollister@hinckleyallen.com  
HINCKLEY, ALLEN & SNYDER, LLP  
20 Church Street, 18<sup>th</sup> Floor  
Hartford, Connecticut 06103  
Juris No. 428858  
(860) 331-2600  
(860) 278-3802 (Fax)  
(Counsel for other moving parties  
to intervene, 751 Weed Street, LLC,  
W.E. Partners, LLC, and 51 Main Street, LLC)

/Christopher J. Smith; Juris No. 302064/  
Christopher J. Smith; Juris No. 302064  
Commissioner of the Superior Court